



Finance Committee Agenda

City of Newton In City Council

Monday, June 10, 2019

7:30 PM - Please note late start time
Room 211

Please bring your FY 20 -24 Five-year Financial Forecast Book

Items Scheduled for Discussion:

Referred to Zoning & Planning, Public Safety, and Finance Committees

- #136-19** **Short-term rental ordinance with fees**
DIRECTOR OF PLANNING proposing amendments to Chapter 20 and 17 of the Revised Ordinances of the City of Newton to create a short-term rental ordinance with fees that would require registration of short-term rentals with the City's Inspectional Services Department and fire inspections to protect public health and safety.
Public Safety & Transportation Approved on 06/05/19

Referred to Public Facilities and Finance Committees

- #161-19** **Appropriation of \$2 million for design of the Washington Street corridor**
HER HONOR THE MAYOR requesting authorization to appropriate and expend two million dollars (\$2,000,000) from Free Cash for the purpose of developing 25% conceptual design of the Washington Street corridor in order to make the improvements to the corridor eligible for the State's Transportation Improvement Program (TIP) funding.
Public Facilities Held on 06/05/19

Referred to Public Facilities and Finance Committees

- #198-19** **Authorization to acquire by purchase 1135 Washington Street from the State**
HER HONOR THE MAYOR requesting authorization to acquire by purchase the West Newton Armory building and land located at 1135 Washington Street for affordable housing, and further requesting that the sum of one dollar (\$1) be appropriated from the Municipal Building Maintenance/Building Improvements Account to fund all costs associated with the acquisition of such property.
Public Facilities Approved 8-0 on 06/05/19

The location of this meeting is accessible and reasonable accommodations will be provided to persons with disabilities who require assistance. If you need a reasonable accommodation, please contact the city of Newton's ADA Coordinator, Jini Fairley, at least two business days in advance of the meeting: jfairley@newtonma.gov or (617) 796-1253. The city's TTY/TDD direct line is: 617-796-1089. For the Telecommunications Relay Service (TRS), please dial 711.

#533-18 Review/Acceptance of the FY 2020 – FY 2024 5-year Financial Forecast
HER HONOR THE MAYOR submitting the Fiscal Years 2020 to 2024 5-Year Financial Forecast for City Council review/acceptance.

All other items before the Committee will be held without discussion.

Respectfully submitted,

Leonard J. Gentile, Chair



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

Telephone
#136-19 (617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

MEMORANDUM

DATE: May 31, 2019

TO: Councilor Leonard Gentile, Chair, Finance Committee
Members of the Finance Committee

FROM: Barney Heath, Director, Department of Planning and Development
James Freas, Deputy Director of Planning
Rachel Nadkarni, Long Range Planner

RE: **#136-19 Short-term rental ordinance with fees**
DIRECTOR OF PLANNING proposing amendments to Chapter 20 and 17 of the Revised Ordinances of the City of Newton to create a short-term rental ordinance with fees that would require registration of short-term rentals with the City's Inspectional Services Department and fire inspections to protect public health and safety.

MEETING: June 3, 2019

CC: John Lojek, Commissioner of Inspectional Services
Alissa O. Giuliani, City Solicitor
Marie Lawlor and Jonah Temple, Law Department
Jonathan Yeo, Chief Operating Officer

A short-term rental is where an individual makes available a room or their entire unit/home for short duration stays to tourists or visitors. While the use has existed for many years, it has recently become much more common as online listing services have simplified the process of connecting people with rooms to rent to travelers looking for a place to stay. The growing popularity of short-term rentals has led to a range of concerns including quality of life impacts associated with a quasi-commercial use in primarily residential neighborhoods to the loss of units that might otherwise be available for full time residents, thus exacerbating the regional housing crisis. At the same time, short-term rental platforms have enabled greater individual entrepreneurial activity, creating entirely new job categories and supplemental income streams. Attached and described below are ordinance amendments intended to address the issues associated with short-term rentals in Newton based in the state law passed this past winter.

The best estimate staff is able to produce at this time is that there are approximately 150 short term rentals in Newton across all of the major online platforms, representing .6% of total housing units. Approximately half of these listings are for a room in a person's house. The more problematic listings have been for entire houses where there is no resident and the home is only used as a short-term rental and often rented out for parties or events. While there have only been a few of these problem properties, their impacts have been large on the neighborhoods where they exist.

State Law

The Short Term Rental Law, MGL 23A (attached), recently passed by the State provides an overall framework for local regulation while also enabling collection of lodging taxes from short-term rentals. The State Short-Term Rental law requires that short-term rental operators register with the state and allows the State to collect lodging taxes from them. As Newton has already adopted a local lodging tax, the incorporation of short-term rentals is automatic and those local taxes, collected on the City's behalf by the State, will be remitted to Newton. Short-term rentals that operate for less than 15 days a year are exempt from the tax. Should the City Council decide to collect the additional Community Impact fees enabled by the State law, as described below, separate action would be required for each fee and administration of this fee, enforcement and collection, would rest with the City. The data generated through the State registration process will be available to the City. A copy of the State law is attached.

Proposed Ordinance

Planning and Law Department staff are proposing two ordinances relating to short-term rentals, one in the City's general ordinances and one as part of the Zoning Ordinance. The following is intended to highlight the key parts of the proposed general ordinance amendments.

The general City ordinances short-term rental ordinance covers issues of registration, inspection, enforcement, and operating standards. This ordinance includes:

1. Section 20-160. Definitions, most important of which is the definition of a short-term rental. This definition also appears in the Zoning Ordinance.
2. Section 20-161. This section establishes the requirement that short-term rentals register with the City and provide annual certification of continued compliance with all requirements. This section also establishes the requirement that a short-term rental may not operate where there is any building or zoning enforcement issue.
3. Section 20-162. This section lists the submittal requirements in order to receive a City registration. These include:
 - a. State certificate for the short-term rental – The State requires all short-term rentals to register and provides them with a certificate.
 - b. Smoke and Carbon Monoxide Certificate of Compliance – requires inspection from the Fire Department to ensure compliance and receive this certificate.
 - c. Filing fee of \$100.
 - d. Local contact information for someone able to respond in person within 2 hours should an issue arise.
 - e. Proof of residence
 - f. Permission of owner.
 - g. Notice to abutters
4. Section 20-163. Annual inspections conducted by the Fire Department are required for all full-time short-term rentals.
5. Section 20-164. This section establishes a broad standard protecting the neighborhood from general nuisances that might be created by a short-term rental.
6. Section 20-165. This section outlines the responsibilities and requirements placed on operators of short-term rentals. Some of the more significant requirements include:
 - a. Prohibition of commercial events. The most problematic short-term rentals in Newton have been those that have hosted events, parties and similar gatherings. The intent of this rule is to restrict the use of short-term rentals to providing accommodation rather than

- being a venue for events or parties. As the venue is rented, all such activities are de facto commercial in nature with compensation provided to the venue owner.
- b. Occupant registries. Just as is required for hotels and similar facilities, short-term rentals would be required to maintain an occupant registry.
 - c. House Rules. Operators are required to create a set of house rules intended to ensure occupants are aware of the requirements of the City ordinance and actions the occupant can take to ensure they are good neighbors within the community. The operator is required to ensure occupants are aware of these rules.
7. Section 20-166. This section details the process for enforcement of this ordinance including notice to remedy the violation and fines of \$300 a day that such violation persists.

Next Steps

As the taxation of short-term rentals under the State law is slated to begin July 1, staff is hopeful that these amendments can be adopted before that date. A public hearing date for the zoning amendments is set for June 10th.

Attachments

Attachment A – An Act Regulating and Insuring Short-Term Rentals (the State Law)

Attachment B – City of Newton General Ordinance Amendment for Short-Term Rentals

Acts (2018)

Chapter 337

AN ACT REGULATING AND INSURING SHORT-TERM RENTALS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 23A of the General Laws is hereby amended by adding the following section:-

Section 68. (a) The executive office of housing and economic development, in consultation with the executive office of technology services and security and the department of revenue, shall establish and maintain a registry for all operators under chapter 64G who file an application and are issued a certificate of registration in accordance with section 67 of chapter 62C.

(b) The executive office of housing and economic development shall promulgate regulations, in accordance with section 2 of chapter 30A, that are necessary to: (i) develop and implement a registry that is accessible and available to the public; and (ii) support the competitive operation of the traditional lodging industry, short-term rental industry and hosting platforms to operate competitively in the commonwealth. The regulations shall require that a public hearing be held and that a small business impact statement be filed.

(c) The executive office of housing and economic development shall, in developing regulations to implement the registry, consider: (i) existing practices of peer states; (ii) data security practices, protocols and standards; (iii) technological feasibility of existing digital systems, including the feasibility of developing and maintaining a searchable online directory; (iv)

information required to be collected and maintained for operators in the registry, which shall, at a minimum, include a list of accommodations offered for rent by operators who are registered in accordance with section 67 of chapter 62C, provided, however, that the location information for any accommodation offered for rent shall be limited to the name of the street and the city or town where the accommodation is located; (v) any forms or records necessary to implement this section and meet such requirements under this chapter and chapter 64G; (vi) practices utilized to disclose or report information to cities and towns by request; (vii) impacts on the traditional lodging industry, short-term rental industry and hosting platforms; (viii) the fiscal impact to the commonwealth; and (ix) any relevant federal or state laws and regulations.

The executive office of housing and economic development shall establish procedures and protocols to protect the confidentiality and security of an operator's personal information and tax information and prohibit the disclosure of such personal information and tax information maintained pursuant to this section.

SECTION 2. Chapter 29C of the General Laws is hereby amended by adding the following 2 sections:-

Section 19. There shall be a separate fund to be known as the Cape Cod and Islands Water Protection Fund. The fund shall be subject to this chapter, except as otherwise provided in this section. There shall be credited to the fund revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the fund including, but not limited to, revenues received under the excise imposed under section 3C of chapter 64G, any investment income earned on the fund's assets and all other sources, each source being tracked separately for accounting purposes as of June 30 of each year.

The trust shall hold the fund in an account separate from ~~other~~ ^{#136-19} funds of the trust. Proceeds of the fund shall not be used to offset or otherwise replace contract assistance funds or reserve funds used for pool financing. The trust shall apply and disburse amounts credited to the fund, without further appropriation, to provide subsidies and other assistance, which may include principal forgiveness, to local governmental units and other eligible borrowers in the payment of debt service costs on loans and other forms of financial assistance made by the trust for water pollution abatement projects in municipalities that are members of the fund. Each municipality within Barnstable or Nantucket counties or within the county of Dukes County shall be a member of the fund if it is subject to: (i) an area wide wastewater management plan under section 208 of the federal Clean Water Act, 33 U.S.C. 1288; or (ii) a suitable equivalent plan determined by the department of environmental protection. Water pollution abatement projects eligible for subsidies and other assistance under this section may include the utilization of innovative strategies and alternative septic system technologies that result in nutrient reduction for marine and fresh waters.

The fund may provide subsidies and other assistance as provided in this section with respect to debt incurred prior to the establishment of the fund in the towns of Nantucket, Edgartown, Tisbury, Oak Bluffs, Falmouth, Chatham and Provincetown and the city of Barnstable for water pollution abatement projects apart from the trust.

Amounts credited to the fund shall be expended or applied only with the approval of the Cape Cod and Islands Water Protection Fund Management Board established under section 20 and in a manner determined by the board, in addition to any approvals required under this chapter. The board, subject to a memorandum of understanding with the department of environmental protection, may direct the comptroller to transfer a specified amount not to exceed 10 per cent of the annual revenue deposited into the fund to the department for the department to contract with a regional planning agency, institution of higher education or non-profit corporation to evaluate and report

on the efficacy of adaptive management measures to reduce nitrogen pollution of coastal waterways undertaken pursuant to an area wide wastewater management plan or a suitable equivalent plan, to monitor the water quality and watersheds of areas subject to the study and to support further assessment and water quality modeling to further refine area wide wastewater management plans or suitable equivalent plans in Barnstable and Nantucket counties and the county of Dukes County. Any amounts remaining in the fund at the end of a fiscal year shall be carried forward into the following fiscal year and shall remain available for application and disbursement without further appropriation. #136-19

A municipality that is a member of the fund under this section may withdraw from the fund by a $\frac{2}{3}$ vote of its legislative body; provided, however, that a municipality shall not withdraw from the fund during the term of any financial assistance award from the fund to the municipality. A municipality that has withdrawn from the fund shall not have representation on the Cape Cod and Islands Water Protection Fund Management Board established under section 20. A municipality that has withdrawn from the fund and votes, by majority vote of its legislative body, to return to the fund shall not receive money from the fund until not less than 2 years from the date of its vote to return.

Section 20. There shall be a Cape Cod and Islands Water Protection Fund Management Board that shall consist of 1 person to be appointed by each board of selectmen or town council in each municipality that is a member of the Cape Cod and Islands Water Protection Fund; provided, however, that an appointee of a board of selectmen or town council shall be a member of the respective appointing authority, a town manager, town administrator or other municipally employed professional staff. The executive director of the Cape Cod commission, the executive director of the Martha's Vineyard commission and the town manager of Nantucket shall serve as non-voting ex-officio members of the board.

Each member of the management board shall serve for a term of 3 years and until a successor is appointed and qualified and each member of the management board shall be eligible for reappointment. Each member of the management board appointed to fill a vacancy on the management board shall be appointed for the unexpired term of the vacant position. The members of the management board shall select a member to serve as chairperson and vice-chairperson for a term established by vote of the management board. The Cape Cod commission, in consultation with the Martha's Vineyard commission, shall provide administrative and technical support to the management board and may be compensated for its associated costs by vote of the management board. The management board's duties shall be limited to determining the method for subsidy allocation, including, but not limited to, an equitable distribution among participating municipalities consistent with revenue deposited from each municipality into the fund, and to ensuring that money from the Cape Cod and Islands Water Protection Fund is spent only for the purposes in section 19.

SECTION 3. Section 1 of chapter 40U of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by striking out, in line 5, the words "regulating the" and inserting in place thereof the following words:- related to the use of property for short-term rental use or regulating a.

SECTION 4. Section 16 of chapter 62C of the General Laws, as so appearing, is hereby further amended by inserting after subsection (g) the following subsection:-

(g^{1/2}) Notwithstanding subsection (g), the department of revenue shall promulgate regulations to minimize the administrative burden relative to filing returns under said subsection (g) on operators who offer their accommodations to the public for not less than 1 day in 5 separate months, or fewer, in the taxable year. The regulations may authorize an operator to file a return only for a month that the operator's accommodation is offered to the public.

SECTION 5. Subsection (b) of section 21 of said ~~Chapter~~ ^{#136-19} Chapter 62C, as amended by section 3 of chapter 90 of the acts of 2018, is hereby amended by adding the following 2 paragraphs:-

(29) the disclosure of information necessary for administration of the community impact fee imposed pursuant to section 3D of chapter 64G.

(30) the disclosure of information to the executive office of housing and economic development necessary for the establishment and maintenance of a registry pursuant to section 68 of chapter 23A.

SECTION 6. Chapter 64G of the General Laws is hereby amended by striking out sections 1 to 6, inclusive, as appearing in the 2016 Official Edition, and inserting in place thereof the following 11 sections:-

Section 1. As used in this chapter, the following words shall have the following meanings unless the context clearly requires otherwise:

“Bed and breakfast establishment”, a private owner-occupied house where not less than 4 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.

“Bed and breakfast home”, a private owner-occupied house where not more than 3 rooms are let, a breakfast is included in the rent and all accommodations are reserved in advance.

“Commissioner”, the commissioner of revenue.

“Hosting platform”, a service through a digital platform, third-party website, software, online-enabled application, mobile phone application or some other, similar electronic process that allows: (i) an operator to advertise, list or offer the use of an accommodation subject to the excise under this chapter in exchange for rent; (ii) an operator to collect the payment of rent on an accommodation; and (iii) a person to arrange, book, reserve or rent an accommodation.

“Hotel”, a building used for the feeding and lodging of guests licensed or required to be licensed under section 6 of chapter 140.

“Intermediary”, a person or entity, other than an operator, ^{#136-19} that facilitates the sale, use or possession of an occupancy and charges a room charge to the general public; provided, however, that the term “facilitates” shall include a person or entity that brokers, coordinates or in any other way arranges for the purchase, sale, use or possession of occupancies by the general public; provided further, that the term “intermediary” shall include a hosting platform and operator’s agent.

“Lodging house”, a house licensed or required to be licensed under section 23 of chapter 140 and where lodgings are rented to not less than 4 people who shall not be within the second degree of kindred to the owner or operator of such lodging house.

“Motel”, a building or portion of a building in which a person is lodged for hire with or without meals and that is licensed or required to be licensed under section 32B of chapter 140; provided, however, that a “motel” shall not include a hotel or lodging house.

“Occupancy”, the use or possession or the right to the use or possession of a room in a bed and breakfast establishment, hotel, lodging house or motel designed and normally used for sleeping and living purposes for a period of not more than 90 consecutive calendar days, regardless of whether such use and possession is as a lessee, tenant, guest or licensee, or the use or possession or the right to the use or possession of a room in a short term rental normally used for sleeping and living purposes for a period of not more than 31 consecutive calendar days, regardless of whether such use and possession is as a lessee, tenant, guest or licensee; provided, however, that “occupancy” shall include the right to the use or possession of the furnishings or the services and accommodations, including breakfast in a bed and breakfast establishment, accompanying the use and possession of such a room.

“Occupant”, a person who uses, possesses or has a right to use or possess a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel for rent under a lease, concession, permit, right of access,

license or agreement.

“Operator”, a person operating a bed and breakfast establishment, hotel, lodging house, short-term rental or motel in the commonwealth including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such bed and breakfast establishment, hotel, lodging house, short-term rental or motel.

“Operator’s agent”, a person who on behalf of an operator of a bed and breakfast establishment, hotel, motel, short-term rental or lodging house: (i) manages the operation or upkeep of a property offered for rent; or (ii) books reservations at a property offered for rent; provided, however, that an “operator’s agent” shall include, but not be limited to, a property manager, property management company or real estate agent.

“Person”, an individual, partnership, trust or association, with or without transferable shares, joint-stock company, corporation, society, club, organization, institution, estate, receiver, trustee, assignee or referee and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, or any combination of individuals acting as a unit.

“Professionally-managed unit”, 1 of 2 or more short-term rental units that are located in the same city or town, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator’s primary residence.

“Rent”, the total consideration paid by or on behalf of an occupant, including any service, cleaning or other charge, to an operator or an intermediary collecting and remitting the excise on behalf of an operator under section 13 for occupancy, valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature.

“Short-term rental”, an owner-occupied, tenant-occupied ~~or~~ ^{#136-19} non-owner occupied property including, but not limited to, an apartment, house, cottage, condominium or a furnished accommodation that is not a hotel, motel, lodging house or bed and breakfast establishment, where: (i) at least 1 room or unit is rented to an occupant or sub-occupant; and (ii) all accommodations are reserved in advance; provided, however, that a private owner-occupied property shall be considered a single unit if leased or rented as such.

Section 2. This chapter shall not include: (i) lodging accommodations at a federal, state or municipal institution; (ii) lodging accommodations, including dormitories, at religious, charitable, educational and philanthropic institutions; provided, however, that the exemption allowed shall not apply to accommodations provided by any such institution at a hotel or motel generally open to the public and operated by the institution; (iii) privately-owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill; (iv) religious or charitable homes for the aged, infirm, indigent or chronically ill; (v) summer camps for children up to 18 years of age or developmentally disabled individuals; provided, however, that a summer camp that offers its facilities off season to individuals 60 years of age or older for a period of not more than 30 days in a calendar year shall not lose its exemption under this section; (vi) bed and breakfast homes; (vii) lodging accommodations provided to seasonal employees by employers; (viii) alcohol and drug free housing that is certified pursuant to section 18A of chapter 17; (ix) tenancies at will or month-to-month leases; and (x) time-shares, as defined in section 2 of chapter 183B.

For the purposes of this section, “developmentally disabled individual” shall mean an individual who has a severe chronic disability that: (i) is attributable to a mental or physical impairment or combination of mental and physical impairments; (ii) is likely to continue indefinitely; (iii) results in substantial functional limitations in not less than 3 of the following areas of major life activity: (A) self-care; (B) receptive and expressive language; (C) learning; (D) mobility; (E) self-direction; (F) capacity for independent living;

and (G) economic self-sufficiency; and (iv) reflects the individual's need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration and are individually planned and coordinated. ~~#136.19~~

Section 3. An excise shall be imposed upon the transfer of occupancy of a room or unit in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel by an operator at the rate of 5 per cent of the total amount of rent for each such occupancy. An excise shall not be imposed if the total amount of rent is less than \$15 per day or its equivalent.

The operator shall pay the excise to the commissioner at the time provided for filing the return required under section 16 of chapter 62C.

No excises or fees established under this chapter shall be imposed upon the transfer of occupancy of a short-term rental if the operator transfers such short-term rental for not more than 14 days in a calendar year, provided, that the operator has first: (i) registered with the commissioner in accordance with section 67 of chapter 62C; and (ii) filed a declaration with the commissioner, signed by the operator and subject to section 5 of chapter 62C, setting forth the intention to transfer the short-term rental for not more than 14 days in a calendar year. Such a declaration, if applicable, shall be required annually in a manner determined by the commissioner. If the operator transfers the short-term rental for 15 days or more in the same calendar year, or fails to register and file a declaration as required by this section, then the operator shall be liable for the payment of required excises and fees under this chapter, including payment of required taxes and fees on the first 14 days the short-term rental was transferred in the calendar year.

Section 3A. A city or town that accepts this section may impose a local excise upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within that city or town by an operator at a rate of not more than 6 per cent of the total amount of rent for each such occupancy; provided, however, that the city of

Boston may impose such local excise upon the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within the city by an operator at the rate of not more than 6.5 per cent of the total amount of rent of each such occupancy. No excise shall be imposed if the total amount of rent is less than \$15 per day or its equivalent or if the accommodation is exempt under section 2. An operator shall pay the local excise imposed under this section to the commissioner at the same time and in the same manner as the excise due to the commonwealth. All sums received by the commissioner under this section as excise, penalties or forfeitures, interest, costs of suit and fines shall at least quarterly be distributed, credited and paid by the state treasurer upon certification of the commissioner to each city or town that has adopted this section in proportion to the amount of such sums received from the transfer of occupancy in each such city or town. Acceptance of this section shall be: (i) by a majority vote of the city council with the approval of the mayor in the case of a city with a mayor elected to serve as the chief executive officer of the city; (ii) by a majority vote of the city council in every other city; (iii) by a majority vote of the annual town meeting or a special meeting called for that purpose in the case of a municipality with a town meeting form of government; or (iv) by a majority vote of the town council in the case of a municipality with a town council form of government. This section shall take effect on the first day of the calendar quarter following 30 days after its acceptance or on the first day of a later calendar quarter as the city or town may designate. The city or town, in accepting this section, shall not revoke or otherwise amend the applicable local tax rate more often than once in a 12-month period.

The commissioner shall make available to a city or town requesting such information the total amount of room occupancy tax collected in the preceding fiscal year in the city or town requesting the information.

Section 3B. Notwithstanding sections 9 and 10 of chapter 152 of the acts of 1997, the convention center financing fee imposed upon the transfer of occupancy of a short-term rental in the cities of Boston, Cambridge,

Springfield, Worcester, West Springfield and Chicopee shall ~~revert~~ ^{#136-19} half to the General Fund and half to the city in which the short-term rental was transferred.

Section 3C. In addition to the excise imposed under section 3 and any excise imposed under section 3A, an excise shall be imposed on the transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel located within a municipality that is a member of the Cape Cod and Islands Water Protection Fund established under section 19 of chapter 29C at a rate of 2.75 per cent of the total amount of rent for each such occupancy; provided, however, that all revenues received from the excise under this section shall be credited to the Cape Cod and Islands Water Protection Fund. An excise shall not be imposed if the total amount of rent is less than \$15 per day or its equivalent. An operator shall pay the excise due to the Cape Cod and Islands Water Protection Fund to the commissioner at the same time and in the same manner as the excise due to the commonwealth.

Section 3D. (a) A city or town that accepts section 3A may, by a separate vote and in the same manner of acceptance as set forth in section 3A, impose upon an operator a community impact fee of not more than 3 per cent of the total amount of rent for each transfer of occupancy of a professionally managed unit that is located within that city or town.

(b) A city or town that votes to impose a community impact fee under subsection (a) may, by a separate additional vote and in the same manner of acceptance as set forth in section 3A, also impose the community impact fee upon each transfer of occupancy of a short-term rental unit that is located within a two-family or three-family dwelling that includes the operator's primary residence.

(c) All community impact fees under this section shall be paid monthly by the operator to the municipality. A city or town shall dedicate not less than 35 per cent of the community impact fees collected under this section to affordable housing or local infrastructure projects.

Section 4. Except as provided in section 13, reimbursement^{#13619} for the excise imposed under this chapter shall be paid by the occupant of any such room to the operator and each operator shall add to the rent and collect from the occupant the full amount of the excise imposed by this chapter or an amount equal as nearly as possible or practical to the average equivalent thereof and such excise shall be a debt from the occupant to the operator when so added to the rent and shall be recoverable at law in the same manner as other debts.

Section 5. The amount of the excise collected by the operator from the occupant pursuant to this chapter shall be stated and charged separately from the rent and shown separately on any record of the excise at the time the transfer of occupancy is made or on any evidence of such transfer issued or used by the operator.

Section 6. A person shall not operate a bed and breakfast establishment, hotel, lodging house, short-term rental or motel unless a certificate of registration has been issued to the person in accordance with section 67 of chapter 62C.

Section 6A. No person subject to this chapter shall engage in an unlawful practice under section 4 of chapter 151B.

SECTION 7. Said chapter 64G is hereby further amended by striking out sections 7A and 7B, as so appearing, and inserting in place thereof the following 2 sections:-

Section 7A. An operator who has paid to the commissioner an excise pursuant to section 3 upon an account later determined to be worthless shall be entitled to an abatement of the excise paid on the worthless account. A claim for abatement shall be filed not later than April 15 annually and shall cover the amount of the excise on accounts determined to be worthless in the prior calendar year.

An operator who recovers an excise on an account determined to be worthless and for which an application for abatement has been filed shall report and include the same in a monthly return at the time of recovery.

Section 7B. An operator who fails to pay to the commissioner money required to be paid by this chapter shall be personally and individually liable therefor to the commonwealth. As used in this section, the term “operator” shall include an officer or employee of a corporation or a member or employee of a partnership or a limited liability company who, as such officer, employee or member, is under a duty to pay the excises imposed by this chapter. ~~#136-19~~

An operator who misrepresents to an intermediary that the transfer of occupancy of the operator’s property is exempt from the excise imposed by sections 3, 3A and 3C and the community impact fee imposed by section 3D shall be liable for any unpaid excise under said sections 3, 3A and 3C and the community impact fee imposed by said section 3D and shall be deemed to have committed an unfair trade practice under chapter 93A in making such a misrepresentation to the intermediary.

SECTION 8. Said chapter 64G is hereby further amended by striking out section 12, as so appearing, and inserting in place thereof the following 7 sections:-

Section 12. No excise shall be imposed under this chapter upon the transfer of occupancy of a room in a hotel, lodging house, short-term rental or motel if the occupant is an employee of the United States military traveling on official United States military orders that encompass the date of such occupancy. Each operator shall maintain such records as the commissioner shall require to substantiate exemptions claimed under this section.

Section 13. (a) An operator may elect to allow an intermediary to collect rent or facilitate the collection or payment of rent on its behalf through a written agreement on an accommodation subject to the excise under this chapter. An intermediary that enters into a written agreement with the operator to collect rent or facilitate the collection or payment of rent on behalf of the operator of an accommodation subject to the excise under this chapter shall: (i) apply for and obtain a certificate of registration from the commissioner in accordance with section 67 of chapter 62C on behalf of the operator; (ii)

assess, collect, report and remit the excise to the commissioner ~~as described for~~ ^{#136-19} operators in sections 3, 3A, 3B, 3C, 5, 7A, 7B and 12; (iii) assess, collect and remit the community impact fee to the municipality as described for operators in section 3D; (iv) maintain records of any excises collected that have been remitted to the commissioner and shall make these records available to the department upon request; (v) ensure that the operator is registered pursuant to said section 67 of said chapter 62C prior to permitting such operator to list or offer an accommodation for rent through the use of the intermediary; and (vi) notify the operator that the operator must comply with all applicable municipal, state and federal laws including, but not limited to, the collection and remittance of required excises. The certificate of registration obtained from the commissioner pursuant to this subsection shall identify and be in the name of the individual operator, not the intermediary.

(b) An intermediary collecting and remitting the excise on behalf of an operator shall provide notification within a reasonable time to the operator that the excise has been collected and remitted to the commissioner pursuant to section 3. The notification may be delivered in hand or by mail or conveyed by electronic message, mobile or smart phone application or another similar electronic process, digital media or communication portal. An operator shall not be responsible for collecting and remitting the excise on a transaction for which the operator has received notification from an intermediary that the excise has been collected and remitted to the commissioner on their behalf.

(c) The intermediary shall not be liable for faults in collecting or remitting the excise proximately caused by the intermediary's reasonable reliance on representations made to it by the operator about the nature of the property being rented, the duration of the occupancy or other similar misrepresentations made by the operator to the intermediary. The operator shall be liable for any unpaid excise resulting from any such misrepresentation. An intermediary shall not be liable for any over collection of the excise if the excise collected was remitted to the commissioner and the over collection resulted from the intermediary's reasonable reliance on the operator's representations about the

nature of the property being rented or the nature of the occupancy^{#136-19} or whether such property was exempt from the excise. The operator shall be liable for monetary damages to the occupant resulting from any such misrepresentations.

Section 14. A city or town, by ordinance or by-law, may regulate operators registered pursuant to section 67 of chapter 62C and impose penalties for the violation of such an ordinance or by-law. A city or town, by ordinance or by-law, may:

(i) regulate the existence or location of operators under this section within the city or town, including regulating the class of operators and number of local licenses or permits issued to operators under this section and the number of days a person may operate and rent out an accommodation in a calendar year;

(ii) require the licensing or registration of operators within the city or town; provided, however, that a city or town may: (A) accept a certificate of registration issued to an operator in accordance with section 67 of chapter 62C in lieu of requiring an operator to obtain a local license or registration under this section; or (B) issue a provisional license or registration to permit an operator to offer accommodations on temporary or seasonal basis;

(iii) require operators to demonstrate that any properties or premises controlled, occupied, operated, managed or used as accommodations subject to the excise under this chapter are not subject to any outstanding building, electrical, plumbing, mechanical, fire, health, housing or zoning code enforcement, including any notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices;

(iv) require properties or premises controlled, occupied, operated, managed or used by operators as an accommodation subject to the excise under this chapter to undergo health and safety inspections; provided, however, that the cost of any inspection conducted under this section shall be charged to

and solely paid by the operator under this section; provided ~~further~~ ^{#136-19}, that after any initial health and safety inspection, the city or town may determine the frequency of any subsequent inspections;

(v) establish a civil penalty for violation of an ordinance or by-law enacted pursuant to this section; provided, however, that a city or town that suspends or terminates an operator's right to operate an accommodation for a violation of any ordinance or bylaw shall notify the commissioner of revenue of the suspension or termination; and

(vi) establish a reasonable fee to cover the costs associated with the local administration and enforcement of regulating operators and accommodations.

Notwithstanding any ordinance or by-law adopted by a city or town pursuant to this section, an operator of a short-term rental shall post inside the short-term rental unit information regarding the location of any fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building.

Nothing in this section shall preclude a city or town from publishing a public registry of all short-term rental accommodations located within that city or town offered for rent by operators who are registered in accordance with section 67 of chapter 62C. A city or town may determine what relevant information shall be listed, including where the accommodation is located.

Section 15. Nothing in this chapter shall confer a right to lease, sublease or otherwise offer a residential unit as a short-term rental where such use is prohibited by a homeowner's association agreement or requirements, a rental agreement or any other restriction, covenant, requirement or enforceable agreement.

Section 16. For residential units subject to rent control provisions, operators of short-term rentals shall charge not more than the prorated maximum amount allowed.

Section 17. The commissioner shall annually publish ^{#136-19} a report on the economic activity of short-term rentals in the commonwealth rented for occupancy through a hosting platform or intermediary. The commissioner may require a hosting platform, intermediary or operator of a short-term rental to submit to the department of revenue, in a form approved by the commissioner, information necessary to compile the report including, but not limited to: (i) the aggregate rent paid by all occupants during the reporting period; (ii) the total amount of revenue collected from the excise on the transfer of occupancy of the short-term rentals; and (iii) the total amount of revenue collected from the local excise on the transfer of occupancy of the short-term rentals.

The department shall make available any data set used pursuant to this section to a regional planning agency, municipality or other public agency requesting such information; provided, however, that the department shall utilize the practices that are necessary to prevent the public disclosure of personal information regarding operators and occupants. The department shall annually publish local summary statistics on its website. The department shall take all measures necessary to protect the confidentiality and security of an operator's personal tax information from any disclosure pursuant to this section.

Section 18. The commissioner shall promulgate rules and regulations for assessing, reporting, collecting, remitting and enforcing the room occupancy excise pursuant to this chapter.

SECTION 9. Chapter 175 of the General Laws is hereby amended by inserting after section 4E the following section:-

Section 4F. (a) As used in this section, the terms "hosting platform", "operator" and "short-term rental" shall have the same meanings as under section 1 of chapter 64G unless the context clearly requires otherwise.

(b) An operator shall maintain liability insurance of not less than \$1,000,000 to cover each short-term rental, unless such short-term rental is offered through a hosting platform that maintains equal or greater coverage.

Such coverage shall defend and indemnify the operator ~~and any~~ ^{#136-19} tenants or owners in the building for bodily injury and property damage arising from the short-term rental.

(c) Prior to an operator offering a short-term rental through the use of a hosting platform, the hosting platform shall provide notice to the operator that standard homeowners or renters insurance may not cover property damage or bodily injury to a third-party arising from the short-term rental.

(d) Insurers that write homeowners and renters insurance may exclude any and all coverage afforded under the policy issued to a homeowner or lessee for any claim resulting from the rental of any accommodation under chapter 64G. Insurers that exclude the coverage described in this section shall not have a duty to defend or indemnify any claim expressly excluded by a policy. Nothing under this section shall preclude an insurer from providing coverage for short-term rentals.

(e) Any policy or policy form intended to cover operators of short-term rentals from liabilities, whether the policy or policy form is provided by a hosting platform or an operator itself, shall be filed according to instructions provided by the division of insurance.

(f) An operator who intends to operate a short-term rental shall provide notice to any insurer that writes a homeowners or renters insurance policy for the property where such short-term rental is to be located of the operator's intent to operate such short-term rental.

SECTION 10. There shall be a commission to study the feasibility and potential for use of lodging units within the hospitality industry, including hotel, motel, bed and breakfast and short-term rentals, as resources to increase the availability of emergency shelter for individuals and families displaced during extreme weather events or other states of emergency declared by the governor. The commission shall study and make recommendations relating to: (i) ways to maintain up-to-date inventories of units available for shelter during emergencies; (ii) networks to alert local officials about the availability of

hospitality industry units as emergency shelter; (iii) platforms and protocol for communication and coordination between the hospitality industry and state and local officials during emergencies; and (iv) any other factors deemed relevant by the chair of the commission. ^{#136-19}

The commission shall consist of: the director of the Massachusetts emergency management agency or a designee, who shall serve as chair; 2 members appointed by the Massachusetts Lodging Association, Inc.; 3 members appointed by the Massachusetts Municipal Association, Inc., 2 of whom shall have experience in local emergency planning and management and 1 of whom shall have experience in municipal licensure processes; and 3 members appointed by the governor, 1 of whom shall be a representative of the department of revenue, 1 of whom shall be a representative of a hosting platform, as defined in section 1 of chapter 64G of the General Laws, and 1 of whom shall be a representative of a non-profit entity with experience in national-level emergency management and relief.

The commission shall report the results of its study, together with drafts of recommended legislation, if any, by filing the report with the clerks of the house of representatives and senate not later than January 1, 2020.

SECTION 11. The transfer of occupancy of a room in a bed and breakfast establishment, hotel, lodging house, short-term rental or motel in a municipality that becomes a member of the Cape Cod and Islands Water Protection Fund under section 19 of chapter 29C of the General Laws after June 1, 2019 shall be subject to the excise under section 3C of chapter 64G of the General Laws on the first day of a calendar quarter after it has joined the fund, as the municipality may designate.

SECTION 12. Notwithstanding section 19 of chapter 29C of the General Laws, a municipality included in the Cape Cod and Islands Water Protection Fund shall not withdraw from the fund for 1 year after the effective date of this act.

SECTION 13. The executive office of housing and economic development ^{#136:19} shall promulgate regulations necessary to implement a registry pursuant to section 68 of chapter 23A of the General Laws not later than September 30, 2019.

SECTION 14. Sections 3, 3A, 3C and 3D of chapter 64G of the General Laws shall take effect for transfers of occupancies of short-term rentals that commence on or after July 1, 2019 and for which contracts with occupants were entered into on or after January 1, 2019.

SECTION 14A. Section 3B of chapter 64G of the General Laws shall take effect for transfers of occupancies on short-term rentals that commence 90 days after the commonwealth has discharged its obligations on the payment of special obligation bonds of the commonwealth issued pursuant to sections 11 and 12 of chapter 152 of the acts of 1997, as amended, as certified by the secretary of administration and finance.

SECTION 15. A city or town that accepted section 3A of chapter 64G of the General Laws before July 1, 2019 shall be deemed to have accepted said section 3A of said chapter 64G for the purposes of this act.

SECTION 16. Section 9 shall take effect on July 1, 2019.

Approved, December 28, 2018.

[CHAPTER 20]
Article IX
SHORT TERM RENTALS

Sec. 20-160. Definitions.

The meaning of the terms used in this article shall be as follows:

- (a) *Commissioner*: The commissioner of inspectional services.
- (b) *Operator*: A person operating a short-term rental in the City including, but not limited to, the owner or proprietor of such premises, the lessee, sublessee, mortgagee in possession, licensee or any other person otherwise operating such short-term rental.
- (c) *Occupancy*: The use or possession or the right to the use or possession of a room in a Short Term Rental normally used for sleeping and living purposes for a period of not more than 31 consecutive calendar days to one person or party, regardless of whether such use and possession is as a lessee, tenant, guest or licensee.
- (d) *Occupant*: A person who uses, possesses or has a right to use or possess a room in a Short Term Rental for rent under a lease, concession, permit, right of access, license or agreement.
- (e) *Professionally-Managed Unit*: 1 of 2 or more short-term rental units that are located in the City, operated by the same operator and are not located within a single-family, two-family or three-family dwelling that includes the operator's primary residence.
- (f) *Short Term Rental*: The rental of one or more bedrooms (along with any associated living areas) within a dwelling unit on an overnight or short-term basis of less than 30 days to guests. The use is accessory to the primary residential use of the dwelling unit.

Any terms not expressly defined in this article shall have the meaning prescribed by Massachusetts General Laws Chapter 64G, Section 1.

Sec. 20-161. Requirements for Short Term Rentals

- (a) Compliance. No Residential Unit shall be offered as a Short Term Rental except in compliance with the provisions of this section of the Newton Ordinances.
- (b) Registration. Operators of any Short Term Rental located in the City of Newton must register with the City in accordance with Sec. 20-162 of this ordinance.
- (c) No Outstanding Code Enforcement or Building Permits. Operators are prohibited from renting any Short Term Rental if the property is subject to an outstanding building, electrical, plumbing, mechanical, fire, health, housing or zoning code enforcement, including notices of violation, notices to cure, orders of abatement, cease and desist orders or correction notices, or if there are any outstanding building permits for the property.

- (d) Annual Certification. All Operators must file with the Inspectional Services Department a sworn certification attesting to continued compliance with the requirements of this article and all applicable public safety codes. Such certification shall be filed annually on the first business day of January.

Sec. 20-162. Registration Requirements.

Operators must register with the Inspectional Services Department prior to the occupancy of any Short Term Rental that commences after July 1, 2019 by submitting the following:

- (a) State Certificate. A copy of the State certificate of registration issued in accordance with Massachusetts General Laws Chapter 62C, Section 67.
- (b) Local Operator Affidavit. A completed Local Operator Affidavit, in a form established by the Inspectional Services Department, that at minimum contains the following information:
- 1) Contact information of Operator and agent/point of contact;
 - 2) Location of all Short Term Rentals in City owned by operator;
 - 3) Description of operation and number of rooms/units that will be rented;
 - 4) Confirmation that there are no outstanding code enforcement or outstanding building permits;
 - 5) Signature of Operator certifying that Short Term Rental conforms to this ordinance and no outstanding code violations.
- (c) Smoke and Carbon Monoxide Certificate of Compliance. All Short Term Rentals must comply with the applicable smoke detector and carbon monoxide requirements for residential units set forth in Sec. 10-11 of these Ordinances and Massachusetts General Laws Chapter 148, Section 26E. Operators must schedule an inspection with the Fire Department and receive a Certificate of Compliance indicating that the property meets the smoke detector and carbon monoxide requirements prior to the first occupancy commencing after July 1, 2019. Operators shall be responsible for the smoke detector inspection/permit fee to be paid directly to the Fire Department as set forth in Sec. 17-10 of these Ordinances.
- (d) Registration Filing Fee. At the time of registration, Operators must pay a filing fee of \$100, an amount established by the City Council. All applicable inspection fees shall be paid directly to the inspecting department at the time of inspection.
- (e) Local Contact. When registering, an Operator must provide his or her name and contact information, and, in the event that the Operator is not present during the Short Term Rental, the name and contact information of an individual who is able to respond in person to any issues or emergencies that arise during the Short Term Rental within two (2) hours of being notified. Contact information must include a telephone number that is active 24 hours per day to short term rental occupants and public safety agencies. This phone number shall be included in the registration of the Short Term Rental unit at the time of registration. Failure of the local contact to respond within the stated period shall constitute a violation of this ordinance.

- (f) Proof of Residence. When registering an Accessory Short Term Rental, an Operator must provide evidence that he or she resides in the dwelling unit a minimum of 275 days during each calendar year, as demonstrated by at least two of the following: utility bill, voter registration, motor vehicle registration, deed, lease, driver's license or state-issued identification.
- (g) Permission of Owner. An Operator must certify at the time of registration that he or she is the owner of the Short Term Rental or has permission from the owner to operate the Short Term Rental.
- (h) Notice to Abutters. The Operator shall, within thirty (30) after registration of a Short Term Rental, provide notice of such registration to all residential dwellings located within 300 feet of the Short Term Rental. Such notification shall include the contact information of the Operator and the local contact, and a reference this ordinance. Failure to provide such notice shall constitute a violation of this ordinance.

Sec. 20-163. Inspections.

- (a) The Inspectional Services Department, Health and Human Services Department, and Fire Department may conduct inspections of any Short Term Rental as may be required to ensure safety and compliance with all applicable ordinances and local, state, and federal codes. All inspecting departments shall keep records of inspections and visits to the property throughout each year.

Sec. 20-164. Compliance with City Ordinances and State and Local Codes.

- (a) All Short Term Rentals shall comply with all applicable ordinances and local, state, and federal codes applying generally to residential properties in the City, including but not limited to the City's Zoning Ordinance, Chapter 30 of the Revised Ordinances of the City.
- (b) Short Terms Rentals shall not produce noise, vibration, glare, fumes, odors, traffic or parking congestion beyond that which normally occurs in the immediate residential area, nor shall any Short Term Rental result in the repeated disruption of the peace, tranquility, or safety of the immediate residential neighborhood.

Sec. 20-165. Responsibilities of Operators.

- (a) General Responsibility. The Operator shall be responsible for the proper supervision, operation, and maintenance of the Short Term Rental in accordance with the requirements of this article and all other pertinent laws, regulations, and codes. The appointment of an agent shall in no way relieve the Operator from responsibility for full compliance with the law.
- (b) Commercial Events Prohibited. A Short Term Rental property shall not be used for a commercial event during its occupancy as a Short Term Rental. Commercial events include luncheons, banquets, parties, weddings, meetings, charitable fundraising, commercial or advertising activities, or other gatherings for direct or indirect compensation.

- (c) Agreements with Occupants. Operators may not enter into any rental agreements that are inconsistent with the terms of this article.
- (d) Minors. No Short Term Rental shall be rented to any unemancipated person who is younger than eighteen (18) years of age.
- (e) Occupant Registries. The Operator of every Short Term Rental must maintain, in permanent form, a registry log of occupants. It must include the names and home addresses of occupants, occupant's license plate numbers if traveling by car, dates of stay, and the room assigned to each occupant. The registry log must be available for inspection by any City official upon request.
- (f) Fire Prevention Notice. Operators shall post in a visible place inside the short-term rental unit information regarding the location of any fire extinguishers, gas shut off valves, fire exits and fire alarms in the unit and building.
- (g) House Rules. Operators shall institute house rules as necessary to prevent the Short Term Rental from being a cause of complaint to the Police Department or a cause of nuisance or annoyance to the neighbors or neighborhood.
 - 1) House rules should make occupants aware of the City's ordinances and the Operator's policies, which shall be in writing. At a minimum, house rules shall adequately address the following:
 - i. Noise control, including use of audio equipment that may disturb the peace
 - ii. Adherence to laws regarding disorderly behavior
 - iii. Proper garbage disposal
 - iv. Location of parking stalls on the property
 - v. Neighborhood parking regulations and restrictions
 - vi. Occupancy limits according to the City's Zoning Ordinance
 - vii. Any other provisions as may be required by City Officials.
 - 2) Operators shall ensure all occupants are aware of the house rules by distributing them prior to the date of occupancy and posting them in a visible place.
- (h) Egress and Access. Operators shall be responsible for ensuring that adequate egress is provided in accordance with the Massachusetts State Building Code, 780 CMR.
- (i) Maintenance. The building and all parts thereof shall be kept in good general repair and properly maintained.
- (j) Burden of Proof. The burden of proof is placed on the Operator to demonstrate that they are operating within the limits of this article.
- (k) False Information. Submission of false information shall be cause for the Commissioner to suspend or terminate an Operator's right to operate an accommodation.

Sec. 20-166. Enforcement, Violations and Penalties.

- (a) Enforcement. The Inspectional Services Department and the Newton Police Department or their designees shall be responsible for enforcement of this ordinance, including any rule or regulation promulgated hereunder, and shall institute all necessary administrative or legal action to assure compliance.
- (b) Notice of violation. The Commissioner or designee shall issue a written notice of any violation of this article to the Operator. Said notice shall describe the prohibited condition and order that it be remedied within thirty (30) days of receipt of the notice. If such condition is not remedied within that time, the Commissioner may take action to impose the fines described in these Ordinances at sec. 5-22 (g).
- (c) Penalties. Any Operator who violates any provision of this ordinance shall be subject to suspension or termination of the certificate to operate a Short Term Rental and a fine of not more than three hundred dollars (\$300.00) for each violation. Each day a violation occurs shall be a separate offense. The Commissioner shall notify the Massachusetts Commissioner of the Department of Revenue of all such suspensions or terminations. Where non-criminal disposition of this section by civil fine has been provided for in sections 17-22 and 17-23 of these revised ordinances, as amended, pursuant to the authority granted by G.L. c. 40, section 21D, said violation may be enforced in the manner provided in such statute. The civil penalty for each such violation is set forth in section 17-23(c).
- (d) Violations of building, health, or fire code. Any action by the Commissioner to suspend, terminate or issue fines under this section shall not bar any other separate action by any other City Department for health, fire safety, building code or any other violations.
- (e) Failure to Register. Any person who offers or operates a Short Term Rental without first registering with the City shall be fined three hundred dollars (\$300.00) per violation per day. Each day's failure to comply with a notice of violation or any other order shall constitute a separate violation.

Sec. 20-167. Effective Date.

This Ordinance shall take effect on July 1, 2019.

Sec. 20-168. Severability.

The provisions of this article are severable. If any provision, paragraph, sentence, or clause, of this article or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect the other provisions or application of this article.

Sec. 20-169. Reserved.



RUTHANNE FULLER
MAYOR

City of Newton, Massachusetts
Office of the Mayor

#161-19

Telephone
(617) 796-1100

Telefax
(617) 796-1113

TDD
(617) 796-1089

E-mail
rfuller@newtonma.gov

May 31, 2019

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Councilors:

I respectfully request that your Honorable Council amend **Docket Item # 161-19** "**Appropriation of \$2 million for design of the Washington Street Corridor**" by limiting the authorization to simply "appropriate" the funds to a dedicated account for this purpose, and by requiring that the Administration will seek City Council approval for any expenditure of funds when the plan has been finalized.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller
Mayor

RECEIVED
NEWTON CITY CLERK
2019 MAY 31 AM 11:55
David A. Orsogna, Clerk
Newton, MA 02459

161-19

Appropriation of \$2 million for design of the Washington Street corridor
HER HONOR THE MAYOR requesting authorization to appropriate two million dollars (\$2,000,000) from Free Cash for the purpose of developing 25% conceptual design of the Washington Street corridor in order to make the improvements to the corridor eligible for the State's Transportation Improvement Program (TIP) funding. All expenditures from this appropriation shall be subject to approval by the City Council.

#161-19



RUTHANNE FULLER
MAYOR

City of Newton, Massachusetts
Office of the Mayor

Telephone
(617) 796-1100

Telefax
(617) 796-1113

TDD
(617) 796-1089

E-mail
rfuller@newtonma.gov

April 8, 2019

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

Councilors:

I respectfully submit a docket item to your Honorable Council requesting authorization to appropriate and expend the sum of \$2,000,000 from June 30, 2018 Certified Free Cash for the purpose of developing 25% conceptual design of the Washington Street corridor in order to make the improvements to the corridor eligible for the state TIP funding.

Thank you for your consideration of this matter.

Sincerely,

A handwritten signature in black ink that reads "Ruthanne Fuller".

Ruthanne Fuller
Mayor

RECEIVED
NEWTON CITY CLERK
2019 APR - 8 PM 4: 13
DAVID A. OLSON, CMO
NEWTON, MA 02459



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Department of Planning and Development
1000 Commonwealth Avenue Newton, Massachusetts 02459

#161-19
Telephone
(617) 796-1120
Telefax
(617) 796-1142
TDD/TTY
(617) 796-1089
www.newtonma.gov

Barney S. Heath
Director

MEMORANDUM

Date: May 3, 2019

To: Public Facilities Committee
Finance Committee

From: Barney Heath, Director of Planning and Development
James McGonagle, Commissioner of Public Works
Jason Sobel, Director of Transportation Operations
Lou Taverna, City Engineer
Nicole Freedman, Director of Transportation Planning

Subject: Washington Street Project – Design Funds and Background

Meeting Date: May 8, 2019

Cc: Ruthanne Fuller, Mayor
Jonathan Yeo, Chief Operating Officer

Planning and DPW have requested \$2 million in funding to begin preliminary design and engineering for the stretch of Washington Street from Chestnut Street in West Newton east to Thornton Street in Newton Corner. Using a Complete Streets approach, the City is looking to redesign Washington Street to enhance the safety, accessibility and aesthetics of the corridor.

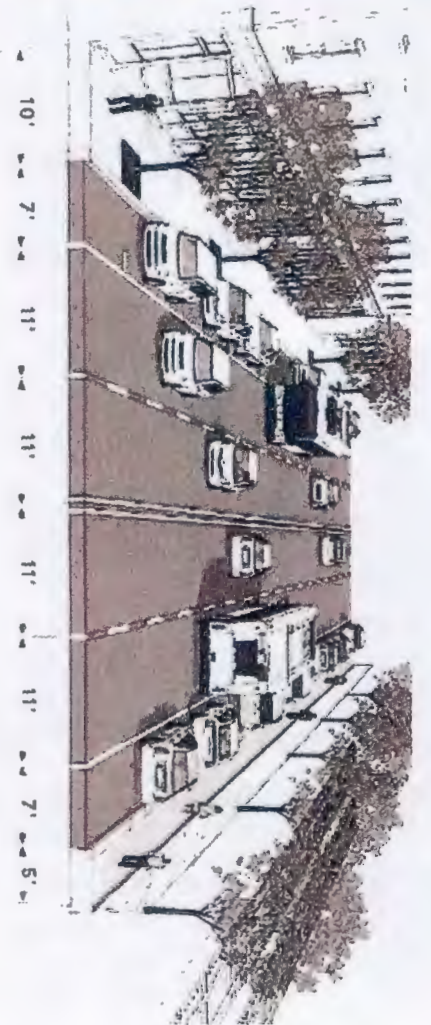
GOALS

Specific goals for the project are the following:

1. design for safe vehicular speeds.
2. improve the street for walking, cycling, mass transit and accessibility.
3. ensure orderly traffic flow and management.
4. create more safe crossings for pedestrians of Washington Street.
5. build wider and more comfortable sidewalks.
6. plant more trees and landscaping.
7. ensure adequate and appropriate parking.
8. improve safety of left turning vehicles between side streets and Washington Street.

TRIAL/DEMONSTRATION

The City believes deeply in the value of pilots and demonstrations and supports implementing a safe, well-conceived, well-timed pilot, with clear metrics. Pilots are costly underscoring the need for a highly thoughtful approach. To be successful, the Washington Street must:



10' 7' 11' 11' 11' 11' 7' 5'



4' 8' 5' 7' 11' 12' 11' 5' 10'

1. Undertake survey and traffic analysis to understand the current status of the roadway.
2. Develop a series of conceptual alternatives for review by the public and the City.
3. Choose an alternative to pilot along and establish clear metrics to determine success or failure.
4. Develop an operations plan to install the pilot or pilots.
5. Assess results.

PUBLIC PROCESS

The City will undertake a comprehensive roadway design process for the corridor building on previous study and concepts developed in 2015 and more recently in the Washington Street Vision Plan. Both prior studies recommend a four to three lane conversion for Washington Street, however neither included detailed survey or traffic analysis. As with the West Newton Square Enhancements and Walnut Street Enhancements projects, the City will undertake a full traffic analysis for Washington Street that will inform all aspects of the design. The City will review and present multiple roadway layout options to the public and host three public meetings during the preliminary design phase. While it is anticipated that a four to three lane conversion will be one option analyzed, the City will study and present multiple options for consideration by Council and the public.

FUNDING

The funding amount is calculated based on recent per-mile costs for design and construction of similar road projects in Newton including West Newton Square, Walnut Street, and Needham Street. The \$2 million for preliminary design funds will be applied to the following tasks:

1. Baseline engineering work (Survey, traffic analysis, functional design report).
2. Preparation of multiple layout options.
3. Public meetings to review alternatives.
4. Concept design with preferred option.
5. Design of trial or demonstrations based on the preferred option.
6. 25% design (“rough draft” engineering design for preferred alternate layout) including construction cost estimate.

Additional design funds will be sought to take the design from 25% to 100%.

CONSTRUCTION FUNDING

One potential source of funding for construction may be the Transportation Improvement Program (TIP) funding. The TIP is frequently utilized to pay for important large-scale roadway projects in the region. The project selection process uses a scoring system to evaluate and rate projects; Washington Street is anticipated to score extremely well. The City intends to submit an initial application at the end of the preliminary design process when all required items will have been completed.

TIMELINE

Preliminary design and engineering including a pilot and public process will take two or more years. Construction would not begin for a minimum of five years or more depending on the funding source.



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Office of the Mayor

#198-19

Telephone
(617) 796-1100
Fax
(617) 796-1113
TDD/TTY
(617) 796-1089
Email

rfuller@newtonma.gov

June 5, 2019

RECEIVED
CITY CLERK
2019 JUN -5 PM 3:10
RUTHANNE FULLER, MAYOR
NEWTON, MA 02459

David Olson, City Clerk
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

RE: Amending Docket Item #198-19

Dear Mr. Olson,

I request that Docket Item #198-19 be amended in the following manner:

HER HONOR THE MAYOR requesting authorization to acquire by purchase the West Newton Armory building and land located at 1135 Washington Street for affordable housing or a public use for a price to be determined.

Thank you for your consideration of this matter.

Sincerely,

Ruthanne Fuller
Mayor



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Office of the Mayor

Telephone
(617) 796-1100
Fax
(617) 796-1113
TDD/TTY
(617) 796-1089
Email
rfuller@newtonma.gov

May 10, 2019

Honorable City Council
Newton City Hall
1000 Commonwealth Avenue
Newton, MA 02459

Ladies and Gentlemen:

I write to request that your Honorable City Council docket the following item for your consideration:

HER HONOR THE MAYOR requesting authorization to acquire by purchase the West Newton Armory building and land located at 1135 Washington Street for affordable housing, and further requesting that the sum of \$1.00 be appropriated from the Municipal Building Maintenance / Building Improvements account (0111502-5825), to fund all costs associated with the acquisition of such property.

Thank you for your consideration of this matter.

Sincerely,

Mayor Ruthanne Fuller

Attachments:

- 1) Memo from Mayor Fuller to the Honorable City Council re: potential West Newton Armory acquisition
- 2) Draft Special Legislation for State Legislature "An Act Authorizing the Commissioner of Capital Asset Management and Maintenance to Convey a Certain Parcel of Land to the City of Newton"
- 3) "West Newton Armory Inspection and Observations" Letter from Josh Morse, Public Buildings Commissioner to Mayor Fuller



Ruthanne Fuller
Mayor

City of Newton, Massachusetts
Office of the Mayor

Telephone
(617) 796-1100
Fax
(617) 796-1113
TDD/TTY
(617) 796-1089
Email
rfuller@newtonma.gov

MEMORANDUM

DATE: May 10, 2019

TO: Members of the City Council

FROM: Mayor Ruthanne Fuller

RE: **West Newton Armory**

CC: Senator Cynthia Creem, Massachusetts Legislature
Representative Kay Khan, Massachusetts Legislature
Representative Ruth Balsler, Massachusetts Legislature
Representative John Lawn, Jr., Massachusetts Legislature
Members of the Planning & Development Board, Newton Housing Partnership,
and Community Preservation Committee

As many of you are aware, last month I made an exciting announcement about the Armory in West Newton during my Fiscal Year 2020 Budget Address. The City of Newton is being presented with an opportunity both to obtain a significant historic building and to increase the supply of vital affordable housing with the acquisition of the Armory at 1135 Washington Street. This opportunity provides the City with a unique chance to implement some of the "Big Ideas" that surfaced in the Hello Washington Street visioning process; this includes protecting historic and iconic buildings and supporting diversity with affordable housing. It also ensures the City is the decision maker and defines the future of this community asset.

The Armory is no longer occupied or needed by the US Army National Guard. The Guard is working with the Commonwealth's Division of Capital Asset Management and Maintenance (DCAMM) to plan for its future reuse. Pending legislative authorization, DCAMM is poised to convey ownership of the Armory to the City for the fee of One Dollar (\$1.00) under the condition that the Armory is used solely for the purpose of permanently affordable housing and related services. Attached is draft special legislation entitled "An Act Authorizing the Commissioner of Capital Asset Management and Maintenance to Convey a Certain Parcel of Land to the City of Newton." Once finalized, this special legislation will be filed by a member of Newton's State delegation and will make its way through the Legislature, hopefully by the end of this summer.

I am grateful to the National Guard, the Commonwealth, and DCAMM for providing Newton with the potential to repurpose this building for such a meaningful and needed use. While no longer needed by the National Guard, other state agencies were first offered this building prior to DCAMM declaring it a surplus property. As the locality in which the Armory is located, Newton was then asked about our interest in the building. Newton is not the first Massachusetts municipality to be offered a surplus armory to be redeveloped as affordable housing. The City of Lynn is currently in the process of redeveloping the Lynn Armory into affordable housing with support services.

Similar to the West Newton Armory, the Lynn Armory was vacant and underutilized in recent years. While the City of Lynn turned down the chance to purchase the property, the Lynn Housing Authority and the Authority's nonprofit development arm, Neighborhood Development Associates, Inc., stepped in. They presented DCAMM with a plan to redevelop the site into affordable one-bedroom micro-units to be located in the former drill hall, with the other section of the armory to be used as space for services and some two-bedroom units. In 2018, state lawmakers enacted a bill filed by the City's State legislative delegation authorizing the State to sell the site to the Lynn Neighborhood Development Associates for \$1.00. In January 2019, the Neighborhood Development Associates closed on the property. Subsequently, the developer submitted an application to the State for Low Income Housing Tax Credits, as well as state and federal historic tax credits.

The Armory as Affordable Housing

The need for more affordable housing throughout Newton continues to persist. Some have thoughtfully asked how it came to be that the City of Newton could obtain the Armory for \$1.00, but only for the purpose of one-hundred percent permanently affordable housing. Through our discussions with representatives from DCAMM, we learned that there were two scenarios under which the City could take control of the West Newton Armory; however, only the first scenario presented the option for the City to purchase the property for \$1.00. A third scenario for conveyance of the property involves selling the property on the open market to the highest bidder. The three scenarios are detailed below.

In both the first two scenarios, the City's intended use of the property would be identified in the special legislation and the sale would include a deed restriction limiting the City's use of the property to that specific use. In the event the City does not use the property for that purpose, the State will have the right to take back title to the property and sell it at market-rate.

DCAMM Sale Scenarios

Scenario #1: City Acquisition for 100% Affordable Housing

Given the priorities of the Governor of Massachusetts and his administration, DCAMM presented the City with the opportunity to acquire the West Newton Armory for \$1.00 if the City would restrict the use of the building to one-hundred percent permanently affordable housing at income levels of 80% of the area median income or lower, as outlined in the attached draft special legislation.

Scenario #2: City Acquisition for a Municipal / Public Use

DCAMM also stated that the City could acquire the property for a municipal / direct public use, such as a police station, library, or community center. However, the acquisition price would not be \$1.00. Under this scenario, DCAMM would have the property appraised as restricted for that municipal use, and the City would be asked to pay an amount that reflected that type of use. DCAMM has sold other state properties to municipalities for their direct public use; in one case, where the proposed use was a public school, the restricted value was 25% of full and fair market value. Currently, the West Newton Amory's *assessed* value is \$4,322,400. Calculating the acquisition cost based upon this value and the municipal-use formula, 25% of \$4,322,400, yields a potential buying cost to the City of over \$1,000,000. This is based on the assessed value, however, and not the appraised value of the site, which is most often higher.

Scenario #3: Open Market Acquisition

The third scenario results if the City decides against purchasing the Armory. DCAMM would then conduct a competitive developer selection process to sell the property on the open market to the highest bidder. In that scenario, any potential private developer would be subject to the City of Newton zoning. DCAMM stated that if a non-profit (e.g., an arts organization) wanted to acquire the building, as a non-City entity their acquisition would fall under this open market scenario.

There are a number of steps that both the City and the State must take prior to the City obtaining control of the Armory. Many people will be involved in these conversations, including the City Council Finance and Public Facilities Committees and the Real Property Reuse Committee and project Joint Advisory Planning Group (JAPG); the Planning, Law, and Public Buildings Departments; consultants and advisors; the Newton Historical Commission and the Massachusetts Historical Commission; the State's Department of Housing and Community Development (DHCD); and many more. Because the City's purchase of the Armory will be contingent upon its use for permanently affordable housing, we suggest that the role of the JAPG not follow the usual model where it traditionally considers alternative uses of City owned property, but instead focus its work on collaborating with the Planning Department and an affordable housing development consultant to define the parameters of the affordable housing project and the specifics to be included in an RFP for development.

My vision for this site is that the City will retain ownership of the Armory (as required by the state) and lease it to an affordable housing development partner who will redevelop and manage the property as one-hundred percent affordable housing. The City is currently doing its due diligence on the property (see the attached letter from Public Buildings Commissioner Josh Morse), and while we are years away from seeing residents occupy this special building, the following timeline will help to keep us focused as we continue to bring many pieces together to make this project a reality.

Step	Timeline
Mayor docket with the City Council an item requesting authorization to acquire the West Newton Armory from the state for \$1.00 for affordable housing (Docket item attached).	Spring 2019
Mayor requests Newton State Delegation file an Act of Special Legislation for conveyance of the Armory to the City for affordable housing (Draft Special Legislation attached).	Spring 2019
City releases RFP for affordable housing development consultant with historic preservation expertise to assess project and work with Joint Advisory Planning Group (JAPG) to define project parameters: costs, preservation considerations, hazardous materials, financing, etc. (anticipated grant funding for development consultant costs).	Summer 2019
City Council deliberates and votes to approve Mayor’s request to acquire the West Newton Armory from the state.	Summer 2019
Mayor docket an item for authorization from City Council to lease the West Newton Armory to an affordable housing development partner to develop permanently affordable housing, pending Legislative authorization to sell to the City.	Summer 2019
Real Property Reuse Committee process commences with vote to surplus property and form a Joint Advisory Planning Group (JAPG).	Summer 2019
State Legislature passes Special Legislation.	Late Summer 2019
DCAMM closes with City and conveys Armory property to the City.	Fall 2019
Selection Committee, including Mayor, Planning Staff, and representative from the City Council (possibly the Chair of the Reuse Committee), selects development consultant, who begins due diligence on property and project assessment.	Fall 2019
JAPG collaborates with development consultant to define parameters for RFP for a project developer and submits report and draft RFP to Reuse Committee.	Fall 2019
Reuse Committee holds public hearing and makes final recommendation to the Mayor.	Winter 2019
Development consultant, staff and Mayor finalize and release RFP for affordable housing developer.	Early 2020
City selects affordable housing development partner.	2 nd Quarter 2020
Developer seeks planning approval (most likely friendly 40B from ZBA) and seeks funding from federal, state, and City of Newton funding sources.	2020 - 2021

Anticipated completion and occupancy	2023
--------------------------------------	------

Again, I am very excited about this opportunity to add much-needed affordable housing, especially in such a unique and well-located building. I will arrange a visit for the City Council to the Armory and possibly to the City of Lynn to meet with Mayor Thomas McGee in the coming weeks. I look forward to the next few years of collaboration with the honorable City Council and our residents as we work together to bring the West Newton Armory back to life.

Acts (2019)

Chapter XXX

AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO CONVEY A CERTAIN PARCEL OF LAND TO THE CITY OF NEWTON

Whereas, The deferred operation of this act would defeat its purpose, which is to authorize forthwith the transfer of a certain parcel of land for the purposes of providing affordable housing and related services, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

(a) Notwithstanding sections 33 through 37, inclusive, of chapter 7C of the General Laws or any general or special law to the contrary, the commissioner of capital asset management and maintenance may convey a certain parcel of land known as and numbered 1135-1137 Washington Street, Newton, Massachusetts, to the City of Newton for nominal consideration to provide affordable housing units, all of which shall be permanently subject to necessary affordability restrictions. As used in this Act, “affordable housing” shall mean low- or moderate-income housing, i.e., housing available to households with annual incomes that do not exceed 80 percent of the area median income and at a cost that does not exceed 30 percent of their monthly gross income. The parcel contains approximately .76 acres. The parcel shall be conveyed by deed without warranties or representations by the commonwealth.

(b) The use of the parcel to be conveyed pursuant to subsection (a) shall be restricted to providing affordable housing and may include supportive services. Notwithstanding the foregoing or any general or special law to the contrary, the City of Newton may lease the parcel or portions thereof to other entities, for nominal consideration, and enter into agreements with other entities to develop, construct, operate and maintain improvements related to the affordable housing units.

(c) The City of Newton shall use its best efforts to complete the construction and development of the parcel for affordable housing.

(d) The deed or other instrument conveying the parcel to the City of Newton shall provide that the parcel shall be used solely for the purposes described in subsections (a) and (b) of this act and shall include a reversionary clause that stipulates that if the parcel ceases at any time to be used for the allowed purposes set forth in this act, title to the parcel shall, at the election of the commonwealth, revert to the commonwealth. Said reversionary clause shall contain provisions requiring that the City of Newton receive reasonable notice of and a reasonable time to cure any allegation that the parcel is not being used for the purposes set forth in this act.

(e) Notwithstanding any general or special law to the contrary, the City of Newton shall be responsible for all costs and expenses of the transaction authorized in this act as determined by the

commissioner of capital asset management and maintenance including, but not limited to, the costs of any engineering, surveys, appraisals, title examinations, recording fees and deed preparation related to the conveyance of the parcel. The City of Newton shall acquire the property thereon in its present condition. Upon the recording of the deed conveying the parcel to the City of Newton, the City of Newton shall be responsible for all costs, liabilities and expenses for its ownership.

(f) If the City of Newton does not complete a purchase of the property described in this act on or before June 30, 2020, or such time after as agreed to by the City of Newton and the commissioner, then, notwithstanding sections 33 to 37, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, the commissioner may sell, lease for terms up to 99 years, including all renewals and extensions, or otherwise grant, convey or transfer to purchasers or lessees an interest in the property or portions thereof, subject to this act and on such terms and conditions as the commissioner considers appropriate. In making any such disposition, the commissioner shall use appropriate competitive bidding processes and procedures. Not less than 30 days before the date on which bids, proposals or other offers to purchase or lease the property or any portion thereof are due, the commissioner shall place a notice in the central register published by the state secretary pursuant to section 20A of chapter 9 of the General Laws stating the availability of the property, the nature of the competitive bidding process, including the time, place and manner for the submission of bids and proposals and the opening of the bids or proposals, and such other information as the commissioner considers relevant.



CITY OF NEWTON, MASSACHUSETTS

PUBLIC BUILDINGS DEPARTMENT

52 ELLIOT STREET, NEWTON HIGHLANDS, MA 02461

Ruthanne Fuller, Mayor
Josh Morse
Building Commissioner

Telephone (617) 796-1600
Facsimile (617) 796-1601
TDD/tty # (617) 796-1608

May 6, 2019

Ruthanne Fuller, Mayor
Newton City Hall
1000 Commonwealth Avenue
Newton Centre, MA 02459

RE: West Newton Armory 7/27/18 Inspection and Observations

Dear Mayor Fuller:

The Newton Armory was built in 1910 and is located at 1137 Washington Street. The lot is 33,150 square feet. The building is made up of three floors with a total gross building area of 30,363 square feet. The Cheesecake Brook is culverted behind the site, and the 200 foot riverfront protection act places restrictions on a small portion of the very rear of the property. There is a 20-30ft elevation change dropping from Washington Street to the rear of the property. The current property managers informed us that the site has the capacity for approximately 50 parking spots but based on the spatial observations I suspect this is only achievable by stacking vehicles, double, and triple parking. However, I do believe that site reconfiguration could yield 50 practical parking spaces. The main entrance is accessed via granite stairs bringing you up approximately 4.5 feet from the sidewalk grade. This will create some challenges from an accessibility standpoint, but the issue is not insurmountable.

The floors are broken down as follows:

Basement: 13,402 square feet. The front, left, and right sides of the basement floor all have windows and therefore the space does receive natural light. The rear end of this floor is at grade, so windows could be added. The space showed absolutely no signs of any water damage, and the users reported no history of flooding or groundwater issues. This floor was originally built with a very open floor plan but has been significantly modified over the years. None of these modifications would be difficult to undo. The core of this floor is made up of two very long spaces isolated from the perimeter. One was used as a firing range, and the other appears to be designed as a large staging area used for either horse travel or munitions transfers. The

interior wall systems are brick where original, and a combination of cmu block and wire lath and plaster where modifications have occurred. With the exception of the 819ft² mechanical room, the rest of the space could be repurposed for programmatic and normal occupied uses. A small kitchen and mess hall are really a blank slate and could be used for most anything.

1st Floor: 13,558 square feet. Windows surround the perimeter of this floor with the exception of the rear facade, where the drill hall stage is. The drill hall is over 10,000ft² when the 760ft² stage is included. The rest of this floor is comprised of offices and sleeping quarters, which has been marginally modified spatially over the years. This floor has one bathroom with showers currently reserved for women. Clearly the drill hall has the potential to be repurposed for a wide variety of uses, but the rest of the spaces on this floor could not be easily modified without significant investment and a loss of interior character.

2nd Floor: 3,403 square feet. This space has two access points. One is a very narrow spiral staircase, and the other is the main staircase approximately 10ft wide. All of these spaces have windows. This floor has one men's room and shower facilities. The rest of this floor is comprised of offices and sleeping quarters. The spaces on this floor have been modified with simple gypsum walls, which could easily be removed to reopen the floor plan.

The facility lacks bathrooms, but there's plenty of capacity to add to the fixture count. Significant investment will be needed to make all three floors accessible and functional from a programmatic access standpoint, which will include a 3 stop elevator and significant modifications to the main entrance.

The following is a summary of the building systems and conditions as observed:

Roof: Asphalt shingles cover the drill hall, and were replaced approximately 10 years ago, and some repairs will be needed due to damage that occurred over the winter. The front section of the building has a white rubber membrane roof that appears to have been replaced within the last 10 years.

Envelope: The exterior masonry appears to be in very solid condition. The mortar was not easily removed with a scrape test, and only a couple of cosmetic cracks were observed. The wall sections are approximately 2 feet thick, but no insulation was observed where penetrations were open and visible.

Windows: There are 91 windows which are approximately 18 inches wide and 4 feet in height. Further investigation will be needed to determine if these windows are original to the building. In general, the windows are very small and limit daylight to portions of the building. This could prove to be a significant challenge if additional daylight is needed in the spaces, as the exterior wall sections were built to protect against forced entry via munitions and the historical significance of the facade will make modifications complicated.

Doors: In general, all the doors inside and out are custom, as they are quite large. This should however make interior accessibility easily to achieve. Most all the doors need to be replaced.

Interior finishes: The floors in most of the spaces are hardwood and good condition. Some of the living quarters have vinyl tile, and most of the basement floor is some form of finished concrete. The walls are painted brick, cmu, and wire lath and plaster. A report from the state is pending that may show if the interior paint and caulking contains lead and or asbestos.

Mechanical: The building has no air conditioning and is heated by steam radiators supplied by two 3 year old steam boilers and a vacuum return system. Although significant money has been spent on the heating system, it would likely need to be replaced as the overall system was not designed or laid out for any purpose other than the original military use.

Plumbing: The plumbing appears to be in good shape but is very limited and distribution is isolated to only the areas of the bathrooms, basement kitchen, and boiler room.

Electrical: The electrical panels were upgraded sometime in the 70's based on the panel models observed. Although these are in working and safe order, the entire electrical distribution and service will need to be replaced. The service to the building will need to be replaced and increased significantly. Lighting is generally adequate, but also needs to be replaced and supplemented to deliver code required light levels.

Fire Alarm: Although a fire alarm system exists, it will need to be replaced with a fully addressable system with adequate coverage based on the new use.

Fire Suppression: The building has no sprinkler system, and this will need to be added based on the level of renovation required.

Data/Phones/Tech: The building has very limited voice and data. This will all need to be replaced and expanded.

Security: Aside from the obvious near impenetrable envelope, the building has no security systems or access controls.

Foundation: The building is a combination of slab on grade, and an unknown below grade wall system. Further investigation will be needed to confirm the foundation type.

Hazardous Materials: The building has asbestos flooring, caulking, adhesives, and insulation. It likely has lead paint within the building, and potentially on the windows as well. The firing range in the basement was a source of lead for many years. The range stopped being used in the 1980's, and the range floors and walls were recently bead blasted and sealed with epoxy. Lead levels as recently as 6/7/18 were still above acceptable limits. I suspect this may be due to interior lead paint, but further testing and investigation will be needed. Depending on the results, this could be a significant cost factor in acquisition and ultimate renovation.

In closing, the Armory is a beautiful building with great historical features and flexible floor plans. The building will require a significant renovation for any change of use. The purpose of my inspection of this facility was to determine whether this facility and/or site could be used for either a Police Headquarters or a site for the NewCAL project. Both projects require a minimum of 2 acres of land area. Additionally, the building itself is too small to contain either program.

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Morse", is written over a faint, light blue circular watermark or stamp.

Josh Morse
Public Buildings Commissioner